

AMENDED IN ASSEMBLY AUGUST 26, 2002

AMENDED IN ASSEMBLY AUGUST 15, 2002

AMENDED IN ASSEMBLY AUGUST 12, 2002

AMENDED IN ASSEMBLY JULY 5, 2001

AMENDED IN SENATE APRIL 25, 2001

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**SENATE BILL**

**No. 1038**

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**Introduced by Senator Sher**

**(Principal coauthor: Senator Bowen)**

(Principal coauthor: Assembly ~~Member~~ *Members Jackson and Wayne*)

*(Coauthor: Assembly Member Simitian)*

February 23, 2001

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An act to amend Sections 25620, 25620.1, 25620.2, 25620.3, 25620.5, 25620.7, 25620.8, 25648, 25648.4, and 25684 of, to add Section 25620.10 to, and to add and repeal Section 25620.9 of, the Public Resources Code, to amend Sections 381, 383.5, 394.25, and 445 of, to add ~~Section 383.6 to~~, *Sections 383.6 and 2826.5 to, to add and repeal Section 2826.6 of*, and to repeal and amend Section 399.7 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1038, as amended, Sher. Renewable energy.

(1) Under the Public Utilities Act, the Public Utilities Commission (*commission*) requires electrical corporations to identify a separate rate component to fund cost-effective energy efficiency and conservation activities, public interest research and development, and development

of renewable resources technology. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support each of these programs. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for these programs to specified funds. Existing law requires the Energy Commission to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program. Existing law requires the program to consist of a balanced portfolio that addresses California's energy and environmental needs, technology opportunities, and system reliability. Existing law, until January 1, 2000, required the Energy Commission to adopt regulations to ensure the success of electricity industry restructuring in the transition to a new market structure and to implement the program. Existing law authorizes the Energy Commission to solicit applications for awards, using a sealed competitive bid, competitive negotiation process, multiparty agreement, single source, or sole source method.

This bill would restate the goal of the program. The bill would require the Energy Commission to use a portfolio approach to achieve the goal.

This bill would require the Energy Commission to convene an advisory board on a regular basis, composed of representatives from the Public Utilities Commission (commission), consumer organizations, environmental organizations, and electrical corporations, to make recommendations to guide the Energy Commission's selection of programs and projects to be funded.

This bill would require the Energy Commission, not later than 3 months after the enactment of this bill to designate a panel of independent experts with special expertise in public interest research, development, and demonstration programs to conduct an evaluation of the program and to submit a preliminary report to the Governor and the Legislature not later than 15 months after the enactment of this bill, and a final report not later than 30 months after the enactment of this bill.

Existing law authorizes the Energy Commission to solicit applications for awards and specifies criteria for funding projects under the program.

This bill would require the Energy Commission to adopt regulations governing the administration of the program, in accordance with specified procedures, until January 1, 2007.

The bill would make technical and conforming changes.



(2) Existing law requires the Energy Commission to prepare and submit to the Legislature by March 31 of each year, an annual report on awards of grants made by the commission for public interest energy research and development projects.

This bill would require the report to set forth the actual costs and results of programs or projects funded by the Energy Commission, compared to their expected costs and benefits.

(3) Existing law requires the ~~Public Utilities Commission~~ ~~(commission)~~ *commission* to order electrical corporations to spend a portion of the separate rate component discussed above, to fund cost effective energy efficiency and conservation activities, public interest research and development, and development of renewable resources technology.

This bill would require the funding of in-state operation and development of existing and new and emerging renewable resources technologies to be made available pursuant to a specified provision of existing law. The bill would make additional technical, nonsubstantive changes.

The bill would require the Energy Commission to award electrical corporations up to 10% of the funds transferred to the Public Interest Research, Development, and Demonstration Fund, for public interest research, development and demonstration projects for transmission and distribution functions, in lieu of the commission ordering electrical corporations to collect and spend funds for investments in public interest research, development, and demonstration projects for transmission and distribution functions.

(4) Existing law defines “in-state renewable electricity generation technology” for the purposes of these provisions. Existing law defines, for the purposes of these provisions, “report” as the Policy Report on AB 1890 Renewables Funding (March 1997, Publication Number P500-97-002) submitted to the Legislature by the Energy Commission.

This bill would ~~define “in-state renewable electricity generation facility” instead of “in-state renewable electricity generation technology”~~ and would modify the existing definition of “*in-state renewable electricity generation technology*” to no longer only include facilities that were placed in operation after September 26, 1996. The bill would include within the definition of “in-state renewable electricity generation ~~facility technology~~” a facility using *fuel cells using renewable fuels*, ocean thermal, tidal current, and wave energy generation technologies, ~~located within the state’s territorial~~

boundaries. The bill would exclude from the existing definition, waste tire and municipal solid waste generation technologies. The bill would provide that on and after January 1, 2002, “report,” for the purposes of these provisions, means the report entitled “Investing in Renewable Electricity Generation in California” (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the Energy Commission.

(5) Existing law requires 45% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$243,000,000, to be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation technology facilities. Existing law requires 30% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$162,000,000, to be used for programs that are designed to foster the development of new in-state renewable electricity generation technology facilities. Existing law requires 10% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$54,000,000, to be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. Existing law requires 15% of the money collected for in-state operation and development of existing and new and emerging renewable resources technologies, up to \$81,000,000, to be used for programs designed to provide customer credits for purchases of renewable energy produced by certified energy providers, to disseminate information regarding renewable energy technologies, to promote purchases of renewable energy, to help develop a consumer market for renewable energy, and to help develop a consumer market for renewable energy technologies.

This bill would instead require 20% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company, the Southern California Edison Company, and the Pacific Gas and Electric Company, to be used for programs that are designed to improve the competitiveness of specified eligible existing in-state renewable electricity generation *technology* facilities. The bill would instead require ~~50.5%~~ 51.5% of the funds collected to accomplish the funding of in-state operation and development of existing and new and



emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company, the Southern California Edison Company, and the Pacific Gas and Electric Company, to be used for programs that are designed to foster the development of new in-state renewable electricity generation *technology* facilities, *including supplemental energy payments under the California Renewables Portfolio Standard Program, and would authorize the Energy Commission, in awarding funding, to provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.* The bill would instead require 17.5% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company, the Southern California Edison Company, and the Pacific Gas and Electric Company, to be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications *and would authorize the Energy Commission, in awarding funding, to provide preference to systems that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.* The bill would instead require 10% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company, the Southern California Edison Company, and the Pacific Gas and Electric Company, to be used to provide customer credits to customers that entered into direct transactions on or before September 20, 2001, for purchases of electricity produced by in-state renewable electricity generation *technology* facilities. The bill would require 1% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, to be spent by the San Diego Gas and Electric Company and the Pacific Gas and Electric Company, to be used to promote renewable energy and to disseminate information on renewable energy technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

This bill would require the Energy Commission, in consultation with the Public Utilities Commission (commission), electrical corporations, publicly owned electric utilities, and the Independent System Operator, to prepare and submit to the Governor and the Legislature by December



1, 2003, a comprehensive renewable sources of electricity development plan that describes the renewable resources available in California, the costs of developing and connecting these resources into the transmission and distribution system, and recommendations for a plan for development to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17% of the total electricity generated for consumption in California by 2006. The bill would further require the Energy Commission to participate in commission proceedings that relate to or affect efforts to stimulate the development of electricity generated from renewable sources.

*These changes would only become operative if SB 1078 or SB 1524 is enacted and becomes effective on or before January 1, 2003, and add the California Renewables Portfolio Standard Program.*

(6) Existing law provides for the Renewable Resource Trust Fund in the State Treasury and establishes certain accounts in the Renewable Resource Trust Fund, including the Customer-Side Renewable Resource Purchases Account. Existing law provides that the money in the fund and the accounts are continuously appropriated to the Energy Commission. Existing law provides that unallocated funds in any account shall remain in the respective account until December 31, 2001.

This bill would instead establish the Customer-Credit Renewable Resources Account and the Renewable Resources Consumer Education Account. The bill would require that unallocated funds in any account remain in the respective account until the Energy Commission submits a specified report.

This bill would require the commission, by December 1, 2003, to prepare and submit to the Legislature, a comprehensive transmission plan for renewable electricity generation facilities, to provide for the rational, orderly, cost-effective expansion of transmission facilities that may be necessary to facilitate the development of renewable electricity generation facilities identified in the renewable electricity generation resource plan.

(7) *Under existing law, the commission is vested with regulatory authority over public utilities and is required to establish requirements for the administration of power purchase contracts between electrical corporations and private energy producers.*

*This bill would authorize the City of Davis to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a photovoltaic facility located within and partially*





owned by the city (PVUSA). The bill would require the commission to adopt a rate tariff for the benefiting account. The bill would also, until January 1, 2008, authorize California State University, Fresno to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a biomass facility located in Reedley and owned by California State University, Fresno (the Dinuba Facility), and the bill would require the commission to adopt a rate tariff for the benefiting account. Because a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime. The bill would declare that, due to the special circumstances applicable only to the PVUSA and the City of Davis, and to the Dinuba Facility and California State University, Fresno, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25620 of the Public Resources Code is  
2 amended to read:

3 25620. The Legislature hereby finds and declares all of the  
4 following:

5 (a) It is in the best interests of the people of this state that the  
6 quality of life of its citizens be improved by providing  
7 environmentally sound, safe, reliable, and affordable energy  
8 services and products.

9 (b) To improve the quality of life of this state's citizens, it is  
10 proper and appropriate for the state to undertake public interest  
11 energy research, development, and demonstration projects that are  
12 not adequately provided for by competitive and regulated energy  
13 markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of Section 399.7 of the Public Utilities Code.

(d) The commission should use its adopted “Five-Year Investment Plan, 2002 Through 2006 for the Public Interest Energy Research (PIER) Program (Volume 1)” (P600-01-004a, March 1, 2001) to ensure compliance with the policies and provisions of Section 399.7 of the Public Utilities Code in the administration of public interest energy research, demonstration, and development programs.

SEC. 2. Section 25620.1 of the Public Resources Code is amended to read:

25620.1. (a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets. The commission shall administer the program consistent with the policies of Section 399.7 of the Public Utilities Code.

(b) The goal of the program is to provide public value for the benefit of California and its citizens through the development of technologies which will improve environmental quality, enhance system reliability, increase efficiency of energy-using technologies, lower system costs, or provide other tangible benefits.

(c) To achieve the goal established in subdivision (b), the commission shall adopt a portfolio approach for the program that does all of the following:

(1) Effectively balances the risks, benefits, and time horizons for various activities and investments that will provide tangible benefits for California electricity ratepayers.

(2) Emphasizes innovative energy supply and end use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.



1 (4) Includes projects that have the potential to enhance the  
2 reliability, peaking power, and storage capabilities of renewable  
3 energy.

4 (5) Demonstrates a balance of benefits to all sectors that  
5 contribute to the funding under Section 399.8 of the Public  
6 Utilities Code.

7 (6) Addresses key technical and scientific barriers.

8 (7) Demonstrates a balance between short-term, mid-term, and  
9 long-term potential.

10 (8) Ensures that prior, current, and future research not be  
11 unnecessarily duplicated.

12 (9) Provides for the future market utilization of projects funded  
13 through the program.

14 (d) The commission shall review the portfolio adopted  
15 pursuant to subdivision (c) in accordance with the “Five-Year  
16 Investment Plan, 2002 Through 2006 for the Public Interest  
17 Energy Research (PIER) Program (Volume 1)” (P600-01-004a,  
18 March 1, 2001).

19 (e) The term “award,” as used in this chapter, may include, but  
20 is not limited to, contracts, grants, interagency agreements, loans,  
21 and other financial agreements designed to fund public interest  
22 research, demonstration, and development projects or programs.

23 SEC. 3. Section 25620.2 of the Public Resources Code is  
24 amended to read:

25 25620.2. ~~To~~ (a) To ensure the efficient implementation and  
26 administration of the Public Interest Research, Development, and  
27 Demonstration Program, the commission shall do both of the  
28 following:

29 (1) Develop procedures for the solicitation of award  
30 applications for project or program funding, and to ensure efficient  
31 program management.

32 (2) Evaluate and select programs and projects, based on merit,  
33 that will be funded under the program.

34 (b) The commission shall adopt regulations to implement the  
35 program, in accordance with the following procedures:

36 (1) Prepare a preliminary text of the proposed regulation and  
37 provide a copy of the preliminary text to any person requesting a  
38 copy.

1 (2) Provide public notice of the proposed regulation to any  
2 person who has requested notice of the regulations prepared by the  
3 commission. The notice shall contain all of the following:

4 (A) A clear overview explaining the proposed regulation.

5 (B) Instructions on how to obtain a copy of the proposed  
6 regulations.

7 (C) A statement that if a public hearing is not scheduled for the  
8 purpose of reviewing a proposed regulation, any person may  
9 request, not later than 15 days prior to the close of the written  
10 comment period, a public hearing conducted in accordance with  
11 commission procedures.

12 (3) Accept written public comments for 30 calendar days after  
13 providing the notice required in paragraph (2).

14 (4) Certify that all written comments were read and considered  
15 by the commission.

16 (5) Place all written comments in a record that includes copies  
17 of any written factual support used in developing the proposed  
18 regulation, including written reports and copies of any transcripts  
19 or minutes in connection with any public hearings on the adoption  
20 of the regulation. The record shall be open to public inspection and  
21 available to the courts.

22 (6) Provide public notice of any substantial revision of the  
23 proposed regulation at least 15 days prior to the expiration of the  
24 deadline for public comments and comment period using the  
25 procedures provided in paragraph (2).

26 (7) Conduct public hearings, if a hearing is requested by an  
27 interested party, that shall be conducted in accordance with  
28 commission procedures.

29 (8) Adopt any proposed regulation at a regularly scheduled and  
30 noticed meeting of the commission. The regulation shall become  
31 effective immediately unless otherwise provided by the  
32 commission.

33 (9) Publish any adopted regulation in a manner that makes  
34 copies of the regulation easily available to the public. Any adopted  
35 regulation shall also be made available on the Internet. The  
36 commission shall transmit a copy of an adopted regulation to the  
37 Office of Administrative Law for publication, or, if the  
38 commission determines that printing the regulation is impractical,  
39 an appropriate reference as to where a copy of the regulation may  
40 be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25620.1 and 25620.2 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2007, unless a later enacted statute deletes or extends that date. However, after January 1, 2007, the commission is not required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2007, using the procedures specified in this subdivision.

SEC. 4. Section 25620.3 of the Public Resources Code is amended to read:

25620.3. (a) The commission may, consistent with the requirements of this chapter, provide awards to any individual or entity for planning, implementation, and administration of projects or programs selected pursuant to Section 25620.5.

(b) The commission may provide an award to a project or program that includes a group of related projects, or to a party who aggregates projects that directly benefit from the award.

(c) The commission may establish multiparty agreements. In a multiparty agreement, the commission may be a signatory to a common agreement among two or more parties. These agreements include, but are not limited to, cofunding, leveraged research, collaborations, and membership arrangements. If the commission enters into these agreements, it shall be a party to these agreements and may share in the roles, responsibilities, risks, investments, and results.

(d) The commission may issue awards that include the ability to make advance payments to prime contractors, to enable them to make advance payments to a subcontractor that is a federal agency, national laboratory, or state entity, on the condition that the subcontract is binding and enforceable and includes specific performance milestones.

(e) The commission may issue awards that include the ability to assign tasks on a work authorization basis.

(f) Prior to making any award pursuant to this chapter for a research, development, or demonstration program or project, the

1 commission shall identify the expected costs and any qualitative  
2 or quantitative benefits of the proposed program or project.

3 SEC. 5. Section 25620.5 of the Public Resources Code is  
4 amended to read:

5 25620.5. (a) The commission may solicit applications for  
6 awards, using a sealed competitive bid, competitive negotiation  
7 process, commission-issued intradepartmental master agreement,  
8 the methods for selection of professional services firms set forth  
9 in Chapter 10 (commencing with Section 4525) of Division 5 of  
10 Title 1 of the Government Code, interagency agreement, single  
11 source, or sole source method. When scoring teams are convened  
12 to review and score proposals, the scoring teams may include  
13 persons not employed by the commission, as long as employees of  
14 the state constitute no less than 50 percent of the membership of  
15 the scoring team. A person participating on a scoring team may not  
16 have any conflict of interest with respect to the proposal before the  
17 scoring team.

18 (b) A sealed bid method may be used when goods and services  
19 to be acquired can be described with sufficient specificity so that  
20 bids can be evaluated against specifications and criteria set forth  
21 in the solicitation for bids.

22 (c) The commission may use a competitive negotiation process  
23 in any of the following circumstances:

24 (1) Whenever the desired award is not for a fixed price.

25 (2) Whenever project specifications cannot be drafted in  
26 sufficient detail so as to be applicable to a sealed competitive bid.

27 (3) Whenever there is a need to compare the different price,  
28 quality, and structural factors of the bids submitted.

29 (4) Whenever there is a need to afford bidders an opportunity  
30 to revise their proposals.

31 (5) Whenever oral or written discussions with bidders  
32 concerning the technical and price aspects of their proposals will  
33 provide better results to the state.

34 (6) Whenever the price of the award is not the determining  
35 factor.

36 (d) The commission may establish interagency agreements.

37 (e) The commission may provide awards on a single source  
38 basis by choosing from among two or more parties or by soliciting  
39 multiple applications from parties capable of supplying or  
40 providing similar goods or services. The cost to the state may be

reasonable and the commission shall only enter into a single source agreement with a particular entity if the commission determines that it is in the state's best interests.

(f) The commission, in accordance with subdivision (g) and in consultation with the Department of General Services, may provide awards on a sole source basis when the cost to the state is reasonable and the commission makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

~~(3) The urgency of the need for the information or deliverable is such that a competitive solicitation would frustrate timely performance.~~

*(3) A competitive solicitation would frustrate obtaining necessary information, goods, or services in a timely manner.*

(4) The award funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the commission to be in the best interests of the state.

(g) The commission may not use a sole source basis for an award pursuant to subdivision (f), unless both of the following conditions are met:

(1) The commission, at least 30 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee, in writing, of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 30 days from the date of notification required by paragraph (1).

(h) The commission shall submit semiannual reports to the Legislative Analyst and to the appropriate fiscal and policy committees of the Legislature that review bills relating to energy and public utilities. The reports shall contain an evaluation of the progress and status of the implementation of this section. In addition, the reports shall identify each instance in which an exemption authorized by subdivision (b) of Section 25620.3 was utilized.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity

1 shall not affect other provisions or applications that can be given  
2 effect without the invalid provision or application.

3 SEC. 6. Section 25620.7 of the Public Resources Code is  
4 amended to read:

5 25620.7. (a) The commission may contract for, or through  
6 interagency agreement obtain, technical, scientific, or  
7 administrative services or expertise from one or more entities, to  
8 support the program. Funding for this purpose shall be made from  
9 money in the Public Interest Research, Development, and  
10 Demonstration Fund.

11 (b) The commission may select the services or expertise  
12 described in subdivision (a), pursuant to Section 25620.5. In the  
13 event that contracts or interagency agreements have been made to  
14 multiple entities and their subcontractors for similar purposes, the  
15 commission may select from among those entities the particular  
16 expertise needed for a specified type of work. Selection of the  
17 particular expertise may be based solely on a review of  
18 qualifications, including the specific expertise required,  
19 availability of the expertise, or access to a resource of special  
20 relevance to the work, including, but not limited to, a database,  
21 model, technical facility, or a collaborative or institutional  
22 affiliation that will expedite the quality and performance of the  
23 work.

24 SEC. 7. Section 25620.8 of the Public Resources Code is  
25 amended to read:

26 25620.8. The commission shall prepare and submit to the  
27 Legislature an annual report, not later than March 31 of each year,  
28 on awards made pursuant to this chapter. The report shall include  
29 information on the names of award recipients, the amount of  
30 awards, and the types of projects funded, an evaluation of the  
31 success of any funded projects, and any recommendations for  
32 improvements in the program. The report shall set forth the actual  
33 costs of programs or projects funded by the commission, the  
34 results achieved, and how the actual costs and results compare to  
35 the expected costs and benefits. The commission shall establish  
36 procedures for protecting confidential or proprietary information  
37 and shall consult with all interested parties in the preparation of the  
38 annual report.

39 SEC. 8. Section 25620.9 is added to the Public Resources  
40 Code, to read:

1     25620.9. (a) Not later than three months after the enactment  
2 of this section, the commission shall designate a panel of  
3 independent experts with special expertise in public interest  
4 research, development, and demonstration programs. In order to  
5 ensure continuity in the evaluation of the public interest energy  
6 research, demonstration, and development projects, the  
7 commission, when practicable, shall select experts that served on  
8 prior independent review panels. The panel shall conduct a  
9 comprehensive evaluation of the program established pursuant to  
10 this chapter. The evaluation shall include a review of the public  
11 value of programs established pursuant to this chapter, including,  
12 but not limited to, the monetary and nonmonetary benefits to  
13 public health and the environment, and the benefit of providing  
14 funds for technology development that would otherwise not be  
15 funded.

16     (b) Not later than 15 months after the enactment of this section,  
17 the panel designated pursuant to subdivision (a) shall submit a  
18 preliminary report to the Governor and to the Legislature on its  
19 findings and recommendations on the implementation of the  
20 program established pursuant to this chapter. The panel, not later  
21 than 30 months after the enactment of this section, shall submit a  
22 final report to the Governor and to the Legislature, including any  
23 additional findings and recommendations regarding  
24 implementation of the program.

25     (c) This section shall remain in effect only until July 1, 2006,  
26 and as of that date is repealed, unless a later enacted statute, that  
27 is enacted before January 1, 2007, deletes or extends that date.

28     SEC. 9. Section 25620.10 is added to the Public Resources  
29 Code, to read:

30     25620.10. The commission shall regularly convene an  
31 advisory board that shall make recommendations to guide the  
32 commission's selection of programs and projects to be funded  
33 under this chapter. The advisory board shall be made up of  
34 representatives from the Public Utilities Commission, consumer  
35 organizations, environmental organizations, and electrical  
36 corporations subject to the funding requirements of Section 381 of  
37 the Public Utilities Code.

38     SEC. 10. Section 25648 of the Public Resources Code is  
39 amended to read:



1 25648. (a) The commission shall make loans, and research  
2 contract and grant awards, for purposes of making existing energy  
3 technologies more efficient, cost-effective, and environmentally  
4 acceptable, and to research, develop, demonstrate, and  
5 commercialize new, cost-effective alternative sources of energy,  
6 technologies which displace conventional fuels, and energy  
7 efficiency and conservation devices.

8 (b) In selecting projects, the commission shall consider, but is  
9 not limited to, the list of opportunity technologies developed in the  
10 most current energy development report produced pursuant to  
11 Section 25604, or a subset of those opportunity technologies.

12 (c) The commission shall select the projects through  
13 competitive bid procedures, including, but not limited to,  
14 invitations for bids, requests for proposals, program opportunity  
15 notices, and multistep bids using preapplications, by  
16 demonstrating the need for sole source awards, or by evaluating  
17 small business grant and loan applications.

18 (d) The criteria for the selection of projects shall include, but  
19 not be limited to, all of the following factors:

20 (1) The potential of the project to reduce energy consumption  
21 or provide an alternative source of energy.

22 (2) The financial, technical, and management strength of the  
23 project applicant.

24 (3) The near-term and long-term feasibility of the project.

25 (4) The ability of the project technology to be used throughout  
26 California.

27 (5) The potential of the project for promoting diverse, secure,  
28 and resilient energy supplies.

29 (6) The potential of the project to displace petroleum.

30 (7) The potential of the project for reducing adverse  
31 environmental impacts.

32 (8) The potential of the project to stimulate economic  
33 development, employment, and tax revenues for California.

34 (9) The potential of the project for reducing short-term and  
35 long-term energy costs for the ratepayers of California.

36 (10) The need of the project for state financing.

37 (11) The ability of the project to attract private and other public  
38 investment.

39 (12) The investment payback period for the project.

1 (13) The probability of success in overcoming the risk of the  
2 project.

3 (14) The potential for stimulating small business competition  
4 in the field of alternative energy development.

5 (15) The ability of the project to generate needed community  
6 economic development for participating local jurisdictions.

7 (16) The extent of the applicant's financial participation.

8 (17) The degree of innovation of the project.

9 (18) Whether the project is, in general, consistent with the  
10 energy policies of California regarding the energy technologies  
11 and priorities as set forth in the biennial report of the commission.

12 (19) The cost of the project.

13 (e) The commission shall apply the criteria specified in  
14 subdivision (d) consistently within each competitive bid  
15 solicitation.

16 (f) Awards provided pursuant to this chapter are not subject to  
17 Article 4 (commencing with Section 10335) of Chapter 2 of Part  
18 2 of Division 2 of the Public Contract Code.

19 SEC. 11. Section 25648.4 of the Public Resources Code is  
20 amended to read:

21 25648.4. The commission shall apply this chapter to research,  
22 development, demonstration, and commercialization projects that  
23 are not subject to Chapter 6 (commencing with Section 3800) of  
24 Division 3, Chapter 7.1 (commencing with Section 25620), and  
25 Chapter 7.8 (commencing with Section 25680).

26 SEC. 12. Section 25684 of the Public Resources Code is  
27 amended to read:

28 25684. (a) The commission shall make loans and repayable  
29 research contracts, and may provide primary research contracts  
30 funding from the account for the purposes of making energy  
31 technologies more efficient and cost-effective, and to develop new  
32 cost-effective alternative sources of energy. The commission shall  
33 select recipients through a procedure using an invitation for bids  
34 or a request for proposals. Each invitation for bids and request for  
35 proposals shall specify the criteria to be used in selecting projects  
36 for financing. The criteria shall include, but not be limited to, all  
37 of the following factors:

38 (1) The potential of the project to reduce consumption and  
39 increase the efficiency of nonrenewable energy sources and  
40 systems.

- 1 (2) The financial, technical, and management strength of the  
2 project applicant.
- 3 (3) The near-term and long-term feasibility of the project.
- 4 (4) The ability of the project technology to be used on other  
5 applications throughout California.
- 6 (5) The potential of the project for promoting diverse, secure,  
7 and resilient energy supplies.
- 8 (6) The potential of the project for reducing adverse  
9 environmental impacts.
- 10 (7) The potential of the project to stimulate economic  
11 development, employment, and tax revenues for California.
- 12 (8) The potential of the project for reducing short-term and  
13 long-term energy costs for the ratepayers of California.
- 14 (9) The need of the project for state financing.
- 15 (10) The ability of the project to garner private investment.
- 16 (11) The investment payback period for the project.
- 17 (12) The probability of success in overcoming the risk of the  
18 project.
- 19 (13) The potential for stimulating small business competition  
20 in the field of alternative energy development.
- 21 (14) The ability of the project to generate needed community  
22 economic development for participating local jurisdictions.
- 23 (15) The extent of the applicant's financial participation.
- 24 (16) The degree of innovation of the project.
- 25 (17) Whether the project is in general agreement with the  
26 energy policies of California regarding the energy technologies  
27 and priorities as set forth in the biennial report of the commission.
- 28 (b) Awards provided pursuant to this chapter are not subject to  
29 Article 4 (commencing with Section 10335) of Chapter 2 of Part  
30 2 of Division 2 of the Public Contract Code.
- 31 SEC. 13. Section 381 of the Public Utilities Code is amended  
32 to read:  
33 381. (a) To ensure that the funding for the programs  
34 described in subdivision (b) and Section 382 are not commingled  
35 with other revenues, the commission shall require each electrical  
36 corporation to identify a separate rate component to collect the  
37 revenues used to fund these programs. The rate component shall  
38 be a nonbypassable element of the local distribution service and  
39 collected on the basis of usage. This rate component shall fall  
40 within the rate levels identified in subdivision (a) of Section 368.

(b) The commission shall allocate funds collected pursuant to subdivision (a), and any interest earned on collected funds, to programs that enhance system reliability and provide in-state benefits as follows:

(1) Cost-effective energy efficiency and conservation activities.

(2) Public interest research and development not adequately provided by competitive and regulated markets.

(3) In-state operation and development of existing and new and emerging renewable resource technologies defined as electricity produced from other than a conventional power source within the meaning of Section 2805, provided that a power source utilizing more than 25 percent fossil fuel may not be included.

(c) The Public Utilities Commission shall order the respective electrical corporations to collect and spend these funds, as follows:

(1) Cost-effective energy efficiency and conservation activities shall be funded at not less than the following levels commencing January 1, 1998, through December 31, 2001: for San Diego Gas and Electric Company a level of thirty-two million dollars (\$32,000,000) per year; for Southern California Edison Company a level of ninety million dollars (\$90,000,000) for each of the years 1998, 1999, and 2000; fifty million dollars (\$50,000,000) for the year 2001; and for Pacific Gas and Electric Company a level of one hundred six million dollars (\$106,000,000) per year.

(2) Research, development, and demonstration programs to advance science or technology that are not adequately provided by competitive and regulated markets shall be funded pursuant to Section 399.8.

(3) In-state operation and development of existing and new and emerging renewable resource technologies shall be funded at not less than the following levels on a statewide basis: one hundred nine million five hundred thousand dollars (\$109,500,000) per year for each of the years 1998, 1999, and 2000, and one hundred thirty-six million five hundred thousand dollars (\$136,500,000) for the year 2001. To accomplish these funding levels over the period described herein the San Diego Gas and Electric Company shall spend twelve million dollars (\$12,000,000) per year, the Southern California Edison Company shall expend no less than forty-nine million five hundred thousand dollars (\$49,500,000) for the years 1998, 1999, and 2000, and no less than seventy-six

1 million five hundred thousand dollars (\$76,500,000) for the year  
2 2001, and the Pacific Gas and Electric Company shall expend no  
3 less than forty-eight million dollars (\$48,000,000) per year  
4 through the year 2001. Additional funding not to exceed  
5 seventy-five million dollars (\$75,000,000) shall be allocated from  
6 moneys collected pursuant to subdivision (d) in order to provide  
7 a level of funding totaling five hundred forty million dollars  
8 (\$540,000,000).

9 (4) Up to fifty million dollars (\$50,000,000) of the amount  
10 collected pursuant to subdivision (d) may be used to resolve  
11 outstanding issues related to implementation of subdivision (a) of  
12 Section 374. Moneys remaining after fully funding the provisions  
13 of this paragraph shall be reallocated for purposes of paragraph  
14 (3).

15 (5) Up to ninety million dollars (\$90,000,000) of the amount  
16 collected pursuant to subdivision (d) may be used to resolve  
17 outstanding issues related to contractual arrangements in the  
18 Southern California Edison service territory stemming from the  
19 Biennial Resource Planning Update auction. Moneys remaining  
20 after fully funding the provisions of this paragraph shall be  
21 reallocated for purposes of paragraph (3).

22 (6) The funding of in-state operation and development of  
23 existing and new and emerging renewable resources technologies  
24 shall be made available pursuant to Section 399.8.

25 (d) Notwithstanding any other provisions of this chapter, the  
26 commission may allow entities subject to its jurisdiction to extend  
27 the period for competition transition charge collection up to three  
28 months beyond its otherwise applicable termination of December  
29 31, 2001, so as to ensure that the aggregate portion of the research,  
30 environmental, and low-income funds allocated to renewable  
31 resources shall equal five hundred forty million dollars  
32 (\$540,000,000) and that the costs specified in paragraphs (3), (4),  
33 and (5) of subdivision (c) are collected.

34 (e) Each electrical corporation shall allow customers to make  
35 voluntary contributions through their utility bill payments as  
36 either a fixed amount or a variable amount to support programs  
37 established pursuant to paragraph (3) of subdivision (b). Funds  
38 collected by electrical corporations for these purposes shall be  
39 forwarded in a timely manner to the appropriate fund as specified  
40 by the commission.

(f) For purposes of this article, “emerging renewable technology” means a new renewable technology, including, but not limited to, fuel cells using renewable fuels and photovoltaic technology, that is determined by the State Energy Resources Conservation and Development Commission to be emerging from research and development and that has significant commercial potential.

(g) The commission’s authority to collect funds pursuant to this section, for purposes of paragraph (3) of subdivision (b), shall become inoperative on March 31, 2002.

SEC. 14. Section 383.5 of the Public Utilities Code is amended to read:

383.5. (a) It is the intent of the Legislature in establishing this program, to increase the amount of renewable electricity generated per year, so that it equals at least 17 percent of the total electricity generated for consumption in California ~~per year by 2006.~~

(b) As used in this section, the following terms have the following meaning:

(1) “In-state renewable electricity generation technology” means a facility ~~using that meets all of the following criteria:~~

(A) ~~The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation facility of 30 megawatts or less, digester gas, and municipal solid waste conversion, landfill gas generation technologies, as described in the report, defined in paragraph (2), including any additions or enhancements thereto, that are located in this state or, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.~~

(B) ~~The facility is located near the border of this state and the state with the first point of connection to the Western Systems Coordinating Council (WSCC) Electricity Coordinating Council (WECC) transmission system located within this state. “In-state renewable electricity generation facility” also includes a facility using ocean thermal, tidal current, and wave energy generation technologies, located within the state’s territorial boundaries.~~

~~(2)–~~

(C) ~~For the purposes of this subdivision, “Solid waste conversion” means a technology that uses a non-combustion~~



1 *thermal process to convert solid waste to a clean burning fuel for*  
2 *the purpose of generating electricity, and that meets all of the*  
3 *following criteria:*

4 (i) *The technology does not use air or oxygen in the conversion*  
5 *process.*

6 (ii) *The technology produces no discharges of air contaminants*  
7 *or emissions, including greenhouse gases as defined in Section*  
8 *42801 of the Health and Safety Code.*

9 (iii) *The technology produces no discharges to surface or*  
10 *groundwaters of the state.*

11 (iv) *The technology produces no hazardous wastes.*

12 (v) *To the maximum extent feasible, the technology removes all*  
13 *recyclable materials and marketable green waste compostable*  
14 *materials from the solid waste stream prior to the conversion*  
15 *process and the owner or operator of the facility certifies that the*  
16 *those materials will be recycled or composted.*

17 (vi) *The facility at which the technology is used is in*  
18 *compliance with all applicable laws, regulations, and ordinances.*

19 (vii) *The technology meets any other conditions established by*  
20 *the State Energy Resources Conservation and Development*  
21 *Commission.*

22 (viii) *The facility certifies that any local agency sending solid*  
23 *waste to the facility is in compliance with Division 30*  
24 *(commencing with Section 40000) of the Public Resources Code,*  
25 *has reduced, recycled, or composted solid waste to the maximum*  
26 *extent feasible, and shall have been found by the California*  
27 *Integrated Waste Management Board to have diverted at least 30*  
28 *percent of all solid waste through source reduction, recycling and*  
29 *composting.*

30 (3) “Report” means the report entitled “Investing in  
31 Renewable Electricity Generation in California” (June 2001,  
32 Publication Number P500-00-022) submitted to the Governor and  
33 the Legislature by the State Energy Resources Conservation and  
34 Development Commission.

35 ~~(3)~~

36 (4) “Energy Commission” means the State Energy Resources  
37 Conservation and Development Commission.

38 (c) (1) Twenty percent of the funds collected pursuant to  
39 paragraph (6) of subdivision (c) of Section 381 shall be used for  
40 programs that are designed to improve the competitiveness of



existing in-state renewable electricity generation *technology* facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Eligibility for incentives under this subdivision shall be limited to those technologies found eligible for funds by the Energy Commission pursuant to paragraphs (5), (6), and (8) of subdivision (c) of Section 399.6.

(2) Any funds used to support in-state renewable electricity generation *technology* facilities pursuant to this subdivision shall be expended in accordance with the provisions of the report, subject to all of the following requirements:

(A) Of the funding for existing renewable electricity generation *technology* facilities available pursuant to this subdivision, 75 percent shall be used to fund first tier technologies, including biomass and solar electric technologies and 25 percent shall be used to fund second tier wind technologies.

(B) The Energy Commission shall reexamine the tier structure as proposed in the report and adjust the structure to reflect market and contractual conditions. The Energy Commission shall also consider inflation when adjusting the structure.

(C) The Energy Commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report, as those payment caps are revised in guidelines adopted by the commission, representing the difference between target prices and the market clearing price for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and market *clearing* price or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The market *clearing* price for electricity shall be determined by the Energy Commission based on the energy prices paid to nonutility power generators as authorized by the ~~Energy Commission~~ *commission*, or on otherwise available measures of market price. For the first tier *biomass* technologies, the Energy Commission shall establish a time-differentiated incentive structure that encourages plants to run the maximum feasible amount of time and that provides a higher incentive when the plants are receiving the lowest price. *The Energy Commission may establish a different*

1 *incentive rate within the same technology tier to account for*  
2 *discounted contracts.*

3 (D) Facilities that are eligible to receive funding pursuant to  
4 this subdivision shall be registered in accordance with criteria  
5 developed by the Energy Commission and those facilities may not  
6 receive payments for any electricity produced that has any of the  
7 following characteristics:

8 (i) Is sold at monthly average rates equal to or greater than the  
9 applicable target price, as determined by the Energy Commission.

10 (ii) Is that portion of electricity generation attributable to the  
11 use of qualified agricultural biomass fuel, for a facility that is  
12 receiving fuel-based incentives through the Agricultural  
13 Biomass-to-Energy Incentive Grant Program established pursuant  
14 to Part 3 (commencing with Section 1101) of Division 1 of the  
15 Food and Agricultural Code. Notwithstanding subdivision (f) of  
16 Section 1104 of the Food and Agricultural Code, facilities that  
17 receive funding from the Agricultural Biomass-to-Energy  
18 Incentive Grant Program are eligible to receive funding pursuant  
19 to this subdivision.

20 (iii) Is used onsite or is sold to customers in a manner that  
21 excludes competitive transition charge payments, or is otherwise  
22 excluded from competitive transition charge payments.

23 (d) (1) Fifty-one and one-half percent of the funds collected  
24 pursuant to paragraph (6) of subdivision (c) of Section 381, shall  
25 be used for programs designed to foster the development of new  
26 in-state renewable electricity generation technology facilities, and  
27 to secure for the state the environmental, economic, and reliability  
28 benefits that continued operation of those facilities will provide.

29 (2) Any funds used for new in-state renewable electricity  
30 generation *technology* facilities pursuant to this subdivision shall  
31 be expended in accordance with the report, subject to all of the  
32 following requirements:

33 ~~(A) Funds shall be allocated for proposed projects based on a~~  
34 ~~competitive solicitation process whereby production incentives,~~  
35 ~~not to exceed a maximum amount, as specified by the Energy~~  
36 ~~Commission, are awarded to the lowest bidders, provided that not~~  
37 ~~more than 25 percent of the funds allocated in any competitive~~  
38 ~~solicitation pursuant to paragraph (1) may be awarded to a single~~  
39 ~~project. To best optimize the funds made available pursuant to this~~

subdivision, the Energy Commission may elect to issue awards on a least cost basis, taking into consideration at least the following:

- (i) The amount of the production incentive requested.
- (ii) The estimated costs of necessary transmission upgrades.
- (iii) The estimated costs of energy imbalance charges.

(B) Funds expended for production incentives shall be paid over a five-year period commencing on the date that a project begins electricity production, provided that the project shall be operational prior to January 1, 2002, unless the State Energy Resources Conservation and Development Commission finds that the project will not be operational within four years after the date of the competitive solicitation in which the project was allocated funding. A project that becomes operational later than four years after the date of the competitive solicitation in which the project was allocated funding may not receive payments except upon the extension and reapproval of its award by the Energy Commission, and may not receive any payments for energy generated beyond the date nine years after the date of the competitive solicitation, except upon the extension of its award pursuant to this subparagraph. The Energy Commission may extend and reapprove a project award if it finds that the project will not be operational within the expected four-year period, due to circumstances specific to the project and beyond the control of the project developer. Upon making this finding, the Energy Commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond six years after the date of the applicable competitive solicitation or January 1, 2007, whichever is later. So as to best optimize the funds made available pursuant to this subdivision, the Energy Commission may shorten the operational deadlines specified in this paragraph.

~~(C)~~

(A) *In order to cover the above market costs of renewable resources as approved by the commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing with Section 399.11), the Energy Commission shall award funds in the form of supplemental energy payments, subject to the following criteria:*

1 (i) The Energy Commission may establish caps on  
2 supplemental energy payments. The caps shall be designed to  
3 provide for a viable energy market capable of achieving the goals  
4 of Article 16 (commencing with Section 399.11). The Energy  
5 Commission may waive application of the caps to accommodate  
6 a facility, if it is demonstrated to the satisfaction of the Energy  
7 Commission, that operation of the facility would provide  
8 substantial economic and environmental benefits to end use  
9 customers subject to the funding requirements of Section 381.

10 (ii) Supplemental energy payments shall be awarded only to  
11 facilities that are eligible for funding under this subdivision.

12 (iii) Supplemental energy payments awarded to facilities  
13 selected by an electrical corporation pursuant to Article 16  
14 (commencing with Section 399.11) shall be paid for the lesser of  
15 10 years, or the duration of the contract with the electrical  
16 corporation.

17 (iv) The Energy Commission shall reduce or terminate  
18 supplemental energy payments for projects that fail either to  
19 commence and maintain operations consistent with the  
20 contractual obligations to an electrical corporation, or that fail to  
21 meet eligibility requirements.

22 (v) Funds shall be managed in an equitable manner in order for  
23 retail sellers to meet their obligation under Article 16  
24 (commencing with Section 399.11).

25 (B) The Energy Commission may determine as part of a  
26 solicitation, that a facility that does not meet the definition of  
27 ~~“in-state”~~ “in-state renewable electricity generation facility”  
28 technology” facility solely because it is located outside the state,  
29 is eligible for funding under this subdivision if it meets both of the  
30 following requirements:

31 (i) It is located so that it is or will be connected to the Western  
32 ~~Systems Coordinating Council (WSCC)~~ Electricity Coordinating  
33 Council (WECC) transmission system.

34 (ii) It is developed with guaranteed contracts to sell its  
35 generation to end use customers subject to the funding  
36 requirements of Section 381, or to marketers that provide this  
37 guarantee for resale of the generation, for a period of time at least  
38 equal to the amount of time it receives incentive payments under  
39 this subdivision.

40 ~~(D)~~

1 (C) Facilities that are eligible to receive funding pursuant to  
2 this subdivision shall be registered in accordance with criteria  
3 developed by the Energy Commission and those facilities may not  
4 receive payments for any electricity produced that has any of the  
5 following characteristics:

6 (i) Is sold under an existing long-term contract with an existing  
7 in-state electrical corporation if the contract includes fixed energy  
8 or capacity payments, except for that electricity that satisfies the  
9 provisions of subparagraph (C) of paragraph (1) of subdivision (c)  
10 of Section 399.6.

11 (ii) Is used onsite or is sold to customers in a manner that  
12 excludes competitive transition charge payments, or is otherwise  
13 excluded from competitive transition charge payments.

14 (iii) Is produced by a facility that is owned by an electrical  
15 corporation or a local publicly owned electric utility as defined in  
16 subdivision (d) of Section 9604.

17 (iv) Is a hydroelectric generation project that will require a new  
18 or increased appropriation of water under Part 2 (commencing  
19 with Section 1200) of Division 2 of the Water Code.

20 ~~(E)~~—

21 (D) Eligibility to compete for funds or to receive funds shall be  
22 contingent upon having to sell the output of the renewable  
23 electricity generation facility to customers subject to the funding  
24 requirements of Section 381.

25 ~~(F)~~—

26 (E) The Energy Commission may require applicants  
27 competing for funding to post a forfeitable bid bond or other  
28 financial guaranty as an assurance of the applicant's intent to move  
29 forward expeditiously with the project proposed. The amount of  
30 any bid bond or financial guaranty may not exceed 10 percent of  
31 the total amount of the funding requested by the applicant.

32 ~~(G)~~—

33 (F) In awarding funding, the Energy Commission may provide  
34 preference to projects that provide tangible demonstrable benefits  
35 to communities with a plurality of minority or low-income  
36 populations.

37 (3) Repowered existing facilities shall be eligible for funding  
38 under this subdivision if the capital investment to repower the  
39 existing facility equals at least 80 percent of the value of the  
40 repowered facility.

(4) Facilities engaging in the combustion of municipal solid waste or tires are not eligible for funding under this subdivision.

(5) *Production incentives awarded under this subdivision prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the Energy Commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the Energy Commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.*

(6) *Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation technology facility to the extent that they certify to the satisfaction of the Energy Commission that fuel utilization is limited to the following:*

(A) *Agricultural crops and agricultural wastes and residues.*

(B) *Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.*

(C) *Wood and wood wastes that meet all of the following requirements:*

(i) *Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Ch. 8 (commencing with Sec. 4511), Pt. 2, Div. 4, P.R.C.).*

(ii) *Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.*

(iii) *Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.*



1 (e) (1) Seventeen and one-half percent of the funds collected  
2 pursuant to paragraph (6) of subdivision (c) of Section 381 shall  
3 be used for a multiyear, consumer-based program to foster the  
4 development of emerging renewable technologies in distributed  
5 generation applications.

6 (2) Any funds used for emerging technologies pursuant to this  
7 subdivision shall be expended in accordance with the report,  
8 subject to all of the following requirements:

9 (A) Funding for emerging technologies shall be provided  
10 through a competitive, market-based process that shall be in place  
11 for a period of not less than five years, and shall be structured so  
12 as to allow eligible emerging technology manufacturers and  
13 suppliers to anticipate and plan for increased sale and installation  
14 volumes over the life of the program.

15 (B) The program shall provide monetary rebates, buydowns, or  
16 equivalent incentives, subject to subparagraph (C), to purchasers,  
17 lessees, lessors, or sellers of eligible electricity generating  
18 systems. Incentives shall benefit the end-use consumer of  
19 renewable generation by directly and exclusively reducing the  
20 purchase or lease cost of the eligible system, or the cost of  
21 electricity produced by the eligible system. Incentives shall be  
22 issued on the basis of the rated electrical capacity of the system  
23 measured in watts, or in the amount of electricity production of the  
24 system, measured in kilowatthours, determined by the Energy  
25 Commission.

26 (C) Eligible distributed emerging technologies are  
27 photovoltaic, solar thermal electric, fuel cell technologies that  
28 utilize renewable fuels, and wind turbines of not more than 50  
29 kilowatts rated electrical generating capacity per customer site,  
30 and other distributed renewable emerging technologies that meet  
31 the emerging technology eligibility criteria established by the  
32 Energy Commission. Eligible electricity generating systems are  
33 intended primarily to offset part or all of the consumer's own  
34 electricity demand, and shall not be owned by local publicly  
35 owned electric utilities, nor be located at a customer site that is not  
36 receiving distribution service from an electrical corporation that  
37 is subject to Section 381 and contributing funds to support  
38 programs under this section. All eligible electricity generating  
39 system components shall be new and unused, and shall not have  
40 been previously placed in service in any other location or for any



1 other application, and shall have a warranty of not less than five  
2 years to protect against defects and undue degradation of electrical  
3 generation output. Systems and their fuel resource shall be located  
4 on the same premises of the end-use consumer where the  
5 consumer's own electricity demand is located, and all eligible  
6 electricity generating systems shall be connected to the utility grid  
7 in California. The Energy Commission may require eligible  
8 electricity generating systems to have meters in place to monitor  
9 and measure a system's performance and generation. Only  
10 systems that will be operated in compliance with applicable law  
11 and the rules of the commission shall be eligible for funding.

12 (D) The Energy Commission shall limit the amount of funds  
13 available for any system or project of multiple systems and reduce  
14 the level of funding for any system or project of multiple systems  
15 that has received, or may be eligible to receive, any government  
16 or utility funds, incentives, or credit.

17 (E) In awarding funding, the Energy Commission may provide  
18 preference to systems that provide tangible demonstrable benefits  
19 to communities with a plurality of minority or low-income  
20 populations.

21 (F) In awarding funding, the Energy Commission shall develop  
22 and implement eligibility criteria and a system that provides  
23 preference to systems based upon system performance, taking into  
24 account factors, including, but not limited to, shading, ~~insulation~~  
25 *insolation* levels, and installation orientation.

26 (f) (1) Ten percent of the funds collected pursuant to paragraph  
27 (6) of subdivision (c) of Section 381 shall be used to provide  
28 customer credits to customers that entered into a direct transaction  
29 on or before September 20, 2001, for purchases of electricity  
30 produced by registered in-state renewable electricity generating  
31 facilities.

32 (2) Any funds used for customer credits pursuant to this  
33 subdivision shall be expended, as provided in the report, subject  
34 to the following requirements:

35 ~~(C)~~

36 (A) Customer credits shall be awarded to California retail  
37 customers located in the service territory of an electrical  
38 corporation that is subject to Section 381 that is contributing funds  
39 to support programs under this section, and that is purchasing  
40 qualifying electricity from renewable electricity generating

1 facilities, through transactions traceable to specific generation  
2 sources by any auditable contract trail or equivalent that provides  
3 commercial verification that the electricity from the claimed  
4 renewable electricity generating facilities has been sold once and  
5 only once to a retail customer.

6 (B) Credits awarded pursuant to this paragraph may be paid  
7 directly to electric service providers, energy marketers,  
8 aggregators, or generators if those persons or entities account for  
9 the credits on the recipient customer's utility bills. Credits may not  
10 exceed one and one-half cents (\$0.015) per kilowatthour. Credits  
11 awarded to members of the combined class of customers, other  
12 than residential and small commercial customers, may not exceed  
13 one thousand dollars (\$1,000) per customer per calendar year. In  
14 no event may more than 20 percent of the total customer incentive  
15 funds be awarded to members of the combined class of customers  
16 other than residential and small commercial customers.

17 (C) The Energy Commission shall develop criteria and  
18 procedures for the identification of energy purchasers and  
19 providers that are eligible to receive funds pursuant to this  
20 paragraph through a process consistent with this paragraph. These  
21 criteria and procedures shall apply only to funding eligibility and  
22 may not extend to other renewable marketing claims.

23 ~~(D) The Energy Commission shall develop criteria and~~  
24 ~~procedures for the identification of energy purchasers and~~  
25 ~~providers that are eligible to receive funds pursuant to this~~  
26 ~~paragraph through a process consistent with this paragraph. These~~  
27 ~~criteria and procedures shall apply only to funding eligibility and~~  
28 ~~may not extend to other renewable marketing claims.~~

29 ~~(E) —~~

30 (D) The commission shall notify the Energy Commission in  
31 writing within 10 days of revoking or suspending the registration  
32 of any electric service provider pursuant to paragraph (4) of  
33 subdivision (b) of Section 394.25.

34 ~~(F) —~~

35 (E) By March 31, 2003, the Energy Commission shall report to  
36 the Governor and the Legislature on how to most effectively utilize  
37 the funds for customer credits, including whether, and under what  
38 conditions, the program should be continued. The report shall  
39 include an examination of trends in markets for renewable energy,  
40 including the trading of nonenergy attributes, and the role of

1 customer credits in these markets. The report will recommend an  
2 appropriate funding allocation for the customer credits and how  
3 implementation of the customer credits should be structured, if  
4 appropriate.

5 (F) *Customer credits may not be awarded for the purchase of*  
6 *electricity that is used to meet the obligations of a renewable*  
7 *portfolio standard.*

8 (g) One percent of the funds collected pursuant to paragraph (6)  
9 of subdivision (c) of Section 381 shall be used in accordance with  
10 the report to promote renewable energy and to disseminate  
11 information on renewable energy technologies, including  
12 emerging renewable technologies, and to help develop a consumer  
13 market for renewable energy and for small-scale emerging  
14 renewable energy technologies.

15 (h) (1) The Energy Commission shall adopt guidelines  
16 governing the funding programs authorized under this ~~section~~,  
17 ~~section and Section 399.13~~, at a publicly noticed meeting offering  
18 all interested parties an opportunity to comment. Substantive  
19 changes to the guidelines may not be adopted without at least 10  
20 days' written notice to the public. The public notice of meetings  
21 required by this paragraph may not be less than 30 days.  
22 Notwithstanding any other provision of law, any guidelines  
23 adopted pursuant to this section shall be exempt from the  
24 requirements of Chapter 3.5 (commencing with Section 11340) of  
25 Division 3 of Title 2 of the Government Code. The Legislature  
26 declares that the changes made to this paragraph by the act  
27 amending this section during the 2002 portion of the 2001–02  
28 Regular Session are declaratory of, and not a change in existing  
29 law.

30 (2) Funds to further the purposes of this section may be  
31 committed for multiple years.

32 (3) Awards made pursuant to this section are grants, subject to  
33 appeal to the Energy Commission upon a showing that factors  
34 other than those described in the guidelines adopted by the Energy  
35 Commission were applied in making the awards and payments.  
36 Any actions taken by an applicant to apply for, or become or  
37 remain eligible and registered to receive, payments or awards,  
38 including satisfying conditions specified by the Energy  
39 Commission, shall not constitute the rendering of goods, services,  
40 or a direct benefit to the Energy Commission.

(i) The Energy Commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this section. Reports prepared pursuant to this subdivision shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The reports shall discuss the progress being made toward achieving the 17 percent target provided in subdivision (a) by each funding category authorized pursuant to subdivisions (c), (d), (e), (f), and (g) of this section. The reports shall also address the allocation of funds from interest on the accounts described in this section, and money in the accounts described in subdivision (e) of Section 381. Notwithstanding subdivisions (c), (d), (e), (f), and (g) of this section, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this subdivision, except that reallocations may not reduce the allocation established in subdivision (d) nor increase the allocation established in subdivision (c).

(j) The Energy Commission shall, by December 1, 2003, prepare and submit to the Legislature a comprehensive renewable electricity generation resource plan that describes the renewable resource potential available in California, and recommendations for a plan for development to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006. The Energy Commission shall consult with the commission, electrical corporations, and the Independent System Operator, in the development and preparation of the plan.

(k) The Energy Commission shall participate in proceedings at the commission that relate to or affect efforts to stimulate the development of electricity generated from renewable sources, in order to obtain coordination of the state's efforts to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006.

1 SEC. 15. Section 383.6 is added to the Public Utilities Code,  
2 to read:

3 383.6. The commission shall, by December 1, 2003, prepare  
4 and submit to the Legislature, a comprehensive transmission plan  
5 for renewable electricity generation facilities, to provide for the  
6 rational, orderly, cost-effective expansion of transmission  
7 facilities that may be necessary to facilitate the development of  
8 renewable electricity generation facilities identified in the  
9 renewable electricity generation resource plan prepared pursuant  
10 to subdivision (j) of Section 383.5. The commission shall consult  
11 with the State Energy Resources Conservation and Development  
12 Commission, the Independent System Operator, and electrical  
13 corporations in the development of and preparation of the plan.

14 SEC. 16. Section 394.25 of the Public Utilities Code is  
15 amended to read:

16 394.25. (a) The commission may enforce the provisions of  
17 Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against  
18 electric service providers as if those electric service providers were  
19 public utilities as defined in these code sections. Notwithstanding  
20 the above, nothing in this section grants the commission  
21 jurisdiction to regulate electric service providers other than as  
22 specifically set forth in this part. Electric service providers shall  
23 continue to be subject to the provisions of Sections 2111 and 2112.  
24 Upon a finding by the commission's executive director that there  
25 is evidence to support a finding that the electric service provider  
26 has committed an act constituting grounds for suspension or  
27 revocation of registration as set forth in subdivision (b) of Section  
28 394.25, the commission shall notify the electric service provider  
29 in writing and notice an expedited hearing on the suspension or  
30 revocation of the electric service provider's registration to be held  
31 within 30 days of the notification to the electric service provider  
32 of the executive director's finding of evidence to support  
33 suspension or revocation of registration. The commission shall,  
34 within 45 days after holding the hearing, issue a decision on the  
35 suspension or revocation of registration, which shall be based on  
36 findings of fact and conclusions of law based on the evidence  
37 presented at the hearing. The decision shall include the findings of  
38 fact and the conclusions of law relied upon.



1 (b) An electric service provider may have its registration  
2 suspended or revoked, immediately or prospectively, in whole or  
3 in part, for any of the following acts:

4 (1) Making material misrepresentations in the course of  
5 soliciting customers, entering into service agreements with those  
6 customers, or administering those service agreements.

7 (2) Dishonesty, fraud, or deceit with the intent to substantially  
8 benefit the electric service provider or its employees, agents, or  
9 representatives, or to disadvantage retail electricity customers.

10 (3) Where the commission finds that there is evidence that the  
11 electric service provider is not financially or operationally capable  
12 of providing the offered electric service.

13 (4) The misrepresentation of a material fact by an applicant in  
14 obtaining a registration pursuant to Section 394.

15 (c) Pursuant to its authority to revoke or suspend registration,  
16 the commission may suspend a registration for a specified period  
17 or revoke the registration, or in lieu of suspension or revocation,  
18 impose a moratorium on adding or soliciting additional customers.  
19 Any suspension or revocation of a registration shall require the  
20 electric service provider to cease serving customers within the  
21 boundaries of investor-owned electrical corporations, and the  
22 affected customers shall be served by the electrical corporation  
23 until the time when they may select service from another service  
24 provider. Customers shall not be liable for the payment of any  
25 early termination fees or other penalties to any electric service  
26 provider under the service agreement if the serving electric service  
27 provider's registration is suspended or revoked.

28 (d) The commission shall require any electric service provider  
29 whose registration is revoked pursuant to paragraph (4) of  
30 subdivision (b) to refund all of the customer credit funds that the  
31 electric service provider received from the State Energy Resources  
32 Conservation and Development Commission pursuant to  
33 paragraph (1) of subdivision (f) of Section 383.5. The repayment  
34 of these funds shall be in addition to all other penalties and fines  
35 appropriately assessed the electric service provider for committing  
36 those acts under other provisions of law. All customer credit funds  
37 refunded under this subdivision shall be deposited in the  
38 Renewable Resource Trust Fund for redistribution by the State  
39 Energy Resources Conservation and Development Commission



1 pursuant to Section 383.5. This subdivision may not be construed  
2 to apply retroactively.

3 SEC. 17. Section 399.7 of the Public Utilities Code, as added  
4 by Section 4 of Chapter 1050 of the Statutes of 2000, is repealed.

5 SEC. 18. Section 399.7 of the Public Utilities Code, as added  
6 by Section 4 of Chapter 1051 of the Statutes of 2000, is amended  
7 to read:

8 399.7. (a) In order to ensure that prudent investments in  
9 research, development and demonstration of energy efficient  
10 technologies continue to produce substantial economic,  
11 environmental, public health, and reliability benefits, it is the  
12 policy of this state and the intent of the Legislature that funds made  
13 available, upon appropriation, for energy related public interest  
14 research, development and demonstration programs shall be used  
15 to advance science or technology that are not adequately provided  
16 by competitive and regulated markets.

17 (b) Notwithstanding any other provision of law, moneys  
18 collected for public-interest research, development and  
19 demonstration pursuant to this section shall be transferred to the  
20 Public Interest Research, Development, and Demonstration Fund  
21 of the Energy Commission to be held until further action by the  
22 Legislature. The Energy Commission shall prepare and submit to  
23 the Legislature, on or before March 1, 2001, an initial investment  
24 plan for these moneys, addressing the application of moneys  
25 collected between January 1, 2002, and January 1, 2007. The  
26 initial investment plan shall address the recommendations of the  
27 PIER Independent Review Panel Report, dated March 2000, to  
28 either transform the RD&D program within the Energy  
29 Commission, or to administer it through, or in cooperation with,  
30 an external organization. The initial investment plan shall include  
31 criteria that will be used to determine that a project provides public  
32 benefits to California that are not adequately provided by  
33 competitive and regulated markets. On or before March 31, 2006,  
34 the Energy Commission shall prepare an investment plan  
35 addressing the application of moneys collected between January  
36 1, 2007, and January 1, 2012. No moneys may be expended in the  
37 years covered by these plans without further legislative action.

38 (c) In lieu of the commission retaining funds authorized  
39 pursuant to Section 381 for investments made by electrical  
40 corporations in public interest research, development, and



demonstration projects for transmission and distribution functions, up to 10 percent of the funds transferred to the Energy Commission pursuant to subdivision (b) shall be awarded to electrical corporations for public interest research, development, and demonstration projects for transmission and distribution functions consistent with the policies and subject to the requirements of Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code.

SEC. 19. Section 445 of the Public Utilities Code is amended to read:

445. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby created within the Renewable Resource Trust Fund:

(1) The Existing Renewable Resources Account.

(2) New Renewable Resources Account.

(3) Emerging Renewable Resources Account.

(4) Customer-Credit Renewable Resource Purchases Account.

(5) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended for the state's administration of this article only upon appropriation by the Legislature in the annual Budget Act.

(d) Notwithstanding Section 383, that portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to paragraphs (3) and (6) of subdivision (c) of Section 381, shall be transmitted to the State Energy Resources Conservation and Development Commission (hereafter the Energy Commission) at least quarterly for deposit in the Renewable Resource Trust Fund. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the Energy Commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the Energy Commission without regard to fiscal year for the purposes enumerated in Section 383.5.

1 (e) Upon notification by the Energy Commission, the  
2 Controller shall pay all awards of the money in the accounts  
3 created pursuant to subdivision (b) for purposes enumerated in  
4 Section 383.5. The eligibility of each award shall be determined  
5 solely by the Energy Commission based on the procedures it  
6 adopts under subdivision (h) of Section 383.5. Based on the  
7 eligibility of each award, the Energy Commission shall also  
8 establish the need for a multiyear commitment to any particular  
9 award and so advise the Department of Finance. Eligible awards  
10 submitted by the Energy Commission to the Controller shall be  
11 accompanied by information specifying the account from which  
12 payment should be made and the amount of each payment; a  
13 summary description of how payment of the award furthers the  
14 purposes enumerated in Section 383.5; and an accounting of future  
15 costs associated with any award or group of awards known to the  
16 Energy Commission to represent a portion of a multiyear funding  
17 commitment.

18 (f) The Energy Commission may transfer funds between  
19 accounts for cashflow purposes, provided that the balance due  
20 each account is restored and the transfer does not adversely affect  
21 any of the accounts. The Energy Commission shall examine the  
22 cashflow in the respective accounts on an annual basis, and shall  
23 annually prepare and submit to the Legislature a report that  
24 describes the status of account transfers and repayments.

25 (g) The Energy Commission shall, on a quarterly basis, report  
26 to the Legislature on the implementation of this article. Those  
27 quarterly reports shall be submitted to the Legislature not more  
28 than 30 days after the close of each quarter and shall include  
29 information describing the awards submitted to the Controller for  
30 payment pursuant to this article, the cumulative commitment of  
31 claims by account, the relative demand for funds by account, a  
32 forecast of future awards, and other matters the Energy  
33 Commission determines may be of importance to the Legislature.

34 (h) The Department of Finance, commencing March 1, 1999,  
35 shall conduct an independent audit of the Renewable Resource  
36 Trust Fund and its related accounts annually, and provide an audit  
37 report to the Legislature not later than March 1 of each year for  
38 which this article is operative. The Department of Finance's report  
39 shall include information regarding revenues, payment of awards,  
40 reserves held for future commitments, unencumbered cash

1 balances, and other matters that the Director of Finance determines  
2 may be of importance to the Legislature.

3 *SEC. 20. Section 2826.5 is added to the Public Utilities Code,*  
4 *to read:*

5 2826.5. (a) *As used in this section, the following terms have*  
6 *the following meanings:*

7 (1) *“Benefiting account” means an electricity account, or*  
8 *more than one account, mutually agreed upon by Pacific Gas and*  
9 *Electric Company and the City of Davis.*

10 (2) *“Bill credit” means credits calculated based upon the*  
11 *electricity generation component of the rate schedule applicable*  
12 *to a benefiting account, as applied to the net metered quantities of*  
13 *electricity.*

14 (3) *“PVUSA” means the photovoltaic electricity generation*  
15 *facility selected by the City of Davis, located at 24662 County*  
16 *Road, Davis, California, with a rated peak electricity generation*  
17 *capacity of 600 kilowatts, and as it may be expanded, not to exceed*  
18 *one megawatt of peak generation capacity.*

19 (4) *“Net metered” means the electricity output from the*  
20 *PVUSA.*

21 (5) *“Environmental attributes” associated with the PVUSA*  
22 *include, but are not limited to, the credits, benefits, emissions*  
23 *reductions, environmental air quality credits, and emissions*  
24 *reduction credits, offsets, and allowances, however entitled*  
25 *resulting from the avoidance of the emission of any gas, chemical,*  
26 *or other substance attributable to the PVUSA.*

27 (b) *The City of Davis may elect to designate a benefiting*  
28 *account, or more than one account, to receive bill credit for the*  
29 *electricity generated by the PVUSA, if all of the following*  
30 *conditions are met:*

31 (1) *A benefiting account receives service under a time-of-use*  
32 *rate schedule.*

33 (2) *The electricity output of the PVUSA is metered for*  
34 *time-of-use to allow allocation of each bill credit to correspond to*  
35 *the time-of-use period of a benefiting account.*

36 (3) *All costs associated with the metering requirements of*  
37 *paragraphs (1) and (2) are the responsibility of the City of Davis.*

38 (4) *All electricity delivered to the electrical grid by the PVUSA*  
39 *is the property of Pacific Gas and Electric Company.*

1     (5) *PVUSA does not sell electricity delivered to the electrical*  
2 *grid to a third party.*

3     (6) *The right, title, and interest in the environmental attributes*  
4 *associated with the electricity delivered to the electrical grid by the*  
5 *PVUSA are the property of Nuon Renewable Ventures USA, LLC.*

6     (c) *A benefiting account shall be billed on a monthly basis, as*  
7 *follows:*

8     (1) *For all electricity usage, the rate schedule applicable to the*  
9 *benefiting account, including any surcharge, exit fee, or other cost*  
10 *recovery mechanism, as determined by the commission, to*  
11 *reimburse the Department of Water Resources for purchases of*  
12 *electricity, pursuant to Division 27 (commencing with Section*  
13 *80000) of the Water Code.*

14     (2) *The rate schedule for the benefiting account shall also*  
15 *provide credit for the generation component of the time-of-use*  
16 *rates for the electricity generated by the PVUSA that is delivered*  
17 *to the electrical grid. The generation component credited to the*  
18 *benefiting account may not include the surcharge, exit fee, or other*  
19 *cost recovery mechanism, as determined by the commission, to*  
20 *reimburse the Department of Water Resources for purchases of*  
21 *electricity, pursuant to Division 27 (commencing with Section*  
22 *80000) of the Water Code.*

23     (3) *If in any billing cycle, the charge pursuant to paragraph (1)*  
24 *for electricity usage exceeds the billing credit pursuant to*  
25 *paragraph (2), the City of Davis shall be charged for the*  
26 *difference.*

27     (4) *If in any billing cycle, the billing credit pursuant to*  
28 *paragraph (2), exceeds the charge for electricity usage pursuant*  
29 *to paragraph (1), the difference shall be carried forward as a credit*  
30 *to the next billing cycle.*

31     (5) *After the electricity usage charge pursuant to paragraph (1)*  
32 *and the credit pursuant to paragraph (2) are determined for the*  
33 *last billing cycle of a calendar year, any remaining credit resulting*  
34 *from the application of this section shall be reset to zero.*

35     (d) *Not more frequently than once per year, and upon providing*  
36 *Pacific Gas and Electric Company with a minimum of 60 days*  
37 *notice, the City of Davis may elect to change a benefiting account.*  
38 *Any credit resulting from the application of this section earned*  
39 *prior to the change in a benefiting account that has not been used*

as of the date of the change in the benefit account, shall be applied, and may only be applied, to a benefiting account as changed.

(e) Pacific Gas and Electric Company shall file an advice letter with the Public Utilities Commission, that complies with this section, not later than 10 days after the effective date of this section, proposing a rate tariff for a benefiting account. The commission, within 30 days of the date of filing, shall approve the proposed tariff, or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in a new advice letter.

(f) The City of Davis may terminate its election pursuant to subdivision (b), upon providing Pacific Gas and Electric Company with a minimum of 60 days notice. Should the City of Davis sell its interest in the PVUSA, or sell the electricity generated by the PVUSA, in a manner other than required by this section, upon the date of either event, and the earliest date if both events occur, no further bill credit pursuant to paragraph (2) of subdivision (b) may be earned. Only credit earned prior to that date shall be made to a benefiting account.

(g) The Legislature finds and declares that credit for a benefiting account for the electricity output from the PVUSA are in the public interest in order to value the production of this unique, wholly renewable resource electricity generation facility located in, and owned in part by, the City of Davis. Because of the unique circumstances applicable only to the PVUSA a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

SEC. 21. Section 2826.6 is added to the Public Utilities Code, to read:

2826.6. (a) As used in this section, the following terms have the following meanings:

(1) "Benefiting account" means an electricity account, or more than one account, mutually agreed upon by Pacific Gas and Electric Company and California State University, Fresno, as selected by California State University, Fresno.

(2) "Bill credit" means credits calculated based upon the electricity generation component of the rate schedule applicable to a benefiting account, as applied to the net metered quantities of electricity.

(3) “Dinuba Facility” means the biomass facility located in Reedley, California, that supplies 11.5 megawatts, using no more than 20 percent natural gas, to the electrical grid owned by Pacific Gas and Electric Company.

(4) “Environmental attributes” associated with the Dinuba Facility include, but are not limited to, the credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the Dinuba Facility.

(5) “Net metered” means the electricity output from the Dinuba Facility.

(b) California State University, Fresno may elect to designate a benefiting account, or more than one account, to receive bill credit for the electricity generated by the Dinuba Facility, if all of the following conditions are met:

(1) A benefiting account receives service under a time-of-use rate schedule.

(2) The electricity output of the Dinuba Facility is metered for time-of-use to allow allocation of each bill credit to correspond to the time-of-use period of a benefiting account.

(3) All costs associated with the metering requirements of paragraphs (1) and (2) are the responsibility of California State University, Fresno.

(4) All electricity delivered to the electrical grid by the Dinuba Facility is the property of Pacific Gas and Electric Company.

(5) The Dinuba Facility does not sell electricity delivered to the electrical grid to a third party.

(6) The right, title, and interest in the environmental attributes associated with the electricity delivered to the electrical grid by the Dinuba Facility are the property of Auxiliary Corporation of California State University, Fresno.

(c) A benefiting account shall be billed on a monthly basis, as follows:

(1) For all electricity usage, the rate schedule applicable to the benefiting account shall be the rate schedule of the benefiting account, including any surcharge, exit fee, or other cost recovery mechanism, as determined by the Public Utilities Commission, to reimburse the Department of Water Resources for purchases of



electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(2) The rate schedule for the benefiting account shall also provide credit for the generation component of the time-of-use rates for the electricity generated by the Dinuba Facility that is delivered to the electrical grid. The generation component credited to the benefiting account may not include the surcharge, exit fee, or other cost recovery mechanism, as determined by the Public Utilities Commission, to reimburse the Department of Water Resources for purchases of electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(3) If in any billing cycle, the charge pursuant to paragraph (1) for electricity usage exceeds the billing credit pursuant to paragraph (2), California State University, Fresno shall be charged for the difference.

(4) If in any billing cycle, the billing credit pursuant to paragraph (2), exceeds the charge for electricity usage pursuant to paragraph (1), the difference shall be carried forward as a credit to the next billing cycle.

(5) After the electricity usage charge pursuant to paragraph (1) and the credit pursuant to paragraph (2) are determined for the last billing cycle of a calendar year, any remaining credit resulting from the application of this section shall be reset to zero.

(d) Not more frequently than once per year, and upon providing Pacific Gas and Electric Company with a minimum of 60 days notice, California State University, Fresno may elect to change a benefiting account. Any credit resulting from the application of this section earned prior to the change in a benefiting account that has not been used as of the date of the change in the benefit account, shall be applied, and may only be applied, to a benefiting account as changed.

(e) Pacific Gas and Electric Company shall file an advice letter with the Public Utilities Commission, that complies with this section, not later than 10 days after the effective date of this section, proposing a rate tariff for a benefiting account. The commission, within 30 days of the date of filing, shall approve the proposed tariff, or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in a new advice letter.

(f) California State University, Fresno may terminate its election pursuant to subdivision (b), upon providing Pacific Gas



1 *and Electric Company with a minimum of 60 days notice. Should*  
2 *California State University, Fresno sell its interest in the Dinuba*  
3 *Facility, or sell the electricity generated by the Dinuba Facility, in*  
4 *a manner other than required by this section, upon the date of*  
5 *either event, and the earliest date if both events occur, no further*  
6 *bill credit pursuant to paragraph (2) of subdivision (b) may be*  
7 *earned. Only credit earned prior to that date shall be made to a*  
8 *benefiting account.*

9 *(g) The Legislature finds and declares that credit for a*  
10 *benefiting account for the electricity output from the Dinuba*  
11 *Facility is in the public interest in order to value the production of*  
12 *this unique, renewable resource electricity generation facility*  
13 *located in Reedley, and owned by California State University,*  
14 *Fresno. Because of the unique circumstances applicable only to*  
15 *the Dinuba Facility, a statute of general applicability cannot be*  
16 *enacted within the meaning of subdivision (b) of Section 16 of*  
17 *Article IV of the California Constitution. Therefore, this special*  
18 *statute is necessary.*

19 *(h) This section shall remain in effect only until January 1,*  
20 *2008, and as of that date is repealed, unless a later enacted statute,*  
21 *that is enacted before January 1, 2008, deletes or extends that date.*

22 *SEC. 22. It is the intent of the Legislature, in adding Section*  
23 *2826.5 to the Public Utilities Code, to establish a policy to provide*  
24 *the City of Davis with a bill credit for the electricity generated at*  
25 *a photovoltaic facility owned in part by the City of Davis known*  
26 *as PVUSA. PVUSA is a pioneering solar research project, which*  
27 *for many years served as a partnership between public and private*  
28 *utilities, government agencies, and private companies involved in*  
29 *the photovoltaic industry. PVUSA helped to research and*  
30 *demonstrate the use of photovoltaics for utility scale applications,*  
31 *and helped the industry learn more about how utilities could use*  
32 *photovoltaic systems in their generation mix. The City of Davis*  
33 *recently acquired the project from the State Energy Resources*  
34 *Conservation and Development Commission, and wishes to*  
35 *continue to utilize this existing unique facility. The goal of Section*  
36 *2826.5 of the Public Utilities Code is to provide the City of Davis*  
37 *flexibility in benefiting from this photovoltaic electric generation*  
38 *project, while preventing any negative consequences for other*  
39 *utility customers.*

1     SEC. 23. *It is the intent of the Legislature, in adding Section*  
2     *2826.6 to the Public Utilities Code, to establish a policy to provide*  
3     *California State University, Fresno with a bill credit for the*  
4     *electricity generated at a biomass facility owned by California*  
5     *State University, Fresno known as the Dinuba Facility or Dinuba*  
6     *Energy. The Dinuba Facility, located in Reedley, was donated to*  
7     *the Auxiliary Corporations of California State University, Fresno*  
8     *in 1999, which completed extensive maintenance and repair*  
9     *efforts on the facility. The Dinuba Facility began operations again*  
10    *in July 2001. The Dinuba Facility is located within 50 miles of the*  
11    *university, and uses forest fuels and agricultural byproducts to*  
12    *generate electricity, and may significantly contribute to*  
13    *reeducation in ambient particulate matter in the Central Valley.*  
14    *The goal of Section 2826.6 of the Public Utilities Code is to provide*  
15    *California State University, Fresno flexibility in benefiting from*  
16    *this biomass facility, while preventing any negative consequences*  
17    *for other utility customers.*

18    SEC. 24. *Section 14 of this bill shall only become operative if*  
19    *either, or both, Senate Bill 1078 or Senate Bill 1524 of the 2001–02*  
20    *Regular Session of the Legislature is enacted and becomes*  
21    *effective on or before January 1, 2003, and add the California*  
22    *Renewables Portfolio Standard Program as Article 16*  
23    *(commencing with Section 399.11) to Chapter 2.3 of Part 1 of*  
24    *Division 1 of the Public Utilities Code.*

25    SEC. 25. *No reimbursement is required by this act pursuant*  
26    *to Section 6 of Article XIII B of the California Constitution*  
27    *because the only costs that may be incurred by a local agency or*  
28    *school district will be incurred because this act creates a new crime*  
29    *or infraction, eliminates a crime or infraction, or changes the*  
30    *penalty for a crime or infraction, within the meaning of Section*  
31    *17556 of the Government Code, or changes the definition of a*  
32    *crime within the meaning of Section 6 of Article XIII B of the*  
33    *California Constitution.*